

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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GENERAL ASSURANCE COMPANY,
Plaintiff,

- against -

EDWARD FOBI, et al.

Defendants.

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**REPORT AND
RECOMMENDATION**

CV 04-4189 (NGG) (JO)

JAMES ORENSTEIN, Magistrate Judge:

In an order dated March 31, 2006, I noted that no party in this case had taken any action to advance the litigation since May 13, 2005, and therefore directed that, no later than May 1, 2006: "(a) the defendant must file an answer, (b) the parties must file a stipulation extending the defendant's time to answer, or (c) the plaintiff must file a motion for the entry of a notation of default." Docket Entry ("DE") 4. I warned that "[i]f none of the preceding events occurs by the deadline set forth above, I will deem the plaintiff to have abandoned the case and will promptly file a Report and Recommendation urging the assigned District Judge to dismiss the case for failure to prosecute." *Id.* Since that time, no party has taken any of the actions described in my order. For that reason, I respectfully recommend that the court dismiss this case with prejudice for failure to prosecute.

This Report and Recommendation will be filed electronically on the court's ECF system and is deemed served on all appearing parties as of the date of such filing. Any objections to this Report and Recommendation must be filed with the Clerk of the Court no later than December 1,

2006. Failure to file objections within the specified time waives the right to appeal the District Court's order. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72; *Beverly v. Walker*, 118 F.3d 900, 902 (2d Cir. 1997); *Savoie v. Merchants Bank*, 84 F.2d 52, 60 (2d Cir. 1996).

SO ORDERED.

Dated: Brooklyn, New York
November 15, 2006

/s/ James Orenstein
JAMES ORENSTEIN
U.S. Magistrate Judge